IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21009 of 2003

Between:

A.P.State Coop.Society.Secretaries & Employees Union Dist.Unit, Mahaboobnagar. r/o. Addakal, Addakal (M) Mahaboob Nagar

..... PETITIONER

AND

1 A.P.State Cooperative central Bank Ltd., (APCOB) Troop Bazar, Hyderabad
2 The Suptd. of Police, Mahaboobnagar, Mahaboobnagar Dist.
3 The Mahaboobnagar Dist.Cooperative Central Bank Mahaboobnagar,
4 The Dist.Cooperative officer, Mahaboobnagar, Mahaboobnagar Dist.
5 The Divisional Cooperative officer/ Dy.Registrar, Anaparthy, Mahaboobnagar Dist.
6 The Divisional Cooperative officer/Dy.Registrar, Nagar Kurnool, Mahaboobnagar Dist.
7 The Divisional Cooperative officer/Dy.Registrar, Mahaboob Nagar, Mahaboobnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the First Respondent in directing the 3rd respondent to launch Criminal complaints against the members of the petitioner union and the consequent notices dated 29/8/03 issued by the 3rd respondent herein, directing the concerned Authorities to lodge Criminal complaints against the members of the petitioner union through subsequent notices dated 6/9/03 as illegal, unjust, capricious, amounts to arbitrary exercise of power, violative of Article 14 of the constitution of India and also amounts to without power or authority, violative of the provisions of A.P. cooperative societies Act and principles of natural justice and consequentially set aside the same by directing the respondents not to register Criminal cases against the members of the petitioner union without ascertaining the fact and pass

Counsel for the Petitioner: MR.K.R.PRABHAKAR

Counsel for the RespondentNo.1 : B.VIJAYALAKSHMI

Counsel for the Respondent No.3: MR.N.VASUDEVA REDDY

Counsel for the Respondents No2, 4 to 7: GP FOR COOPERATION

The Court made the following :

ORDER:

Heard both sides.

At the request of both the counsel, the main writ petition itself is taken up for disposal.

Petitioner, which is an Employees' Union filed this writ petition, challenging the action of the respondents herein in issuing the impugned notices and for launching criminal cases against the members of the petitioner's Union and for recovery of amounts by allegations of misappropriation, as illegal.

The case of the petitioner is that having regard to the fact that since fixation of salaries has not been made, the question of recovery of any such amounts and consequent action for prosecution is wholely unsustainable. There is no denial of the fact that the Union has never gone to revise the scales.

This Court in ***Government of Andhra Pradesh v. A.P.State Co-operative Societies Secretaries and Employees Union and others***, held as follows:

> " The emoluments, pay scales and allowances that are to be fixed in respect of each of the employees by each of the societies may depend upon variety of facts and circumstances so far as they relate to the period prior to Section 116-C of the Act coming into operation with effect from
> 22-4-1985 is concerned, and so far as such fixation after 22-4-1985 is concerned the same is to be in accordance with the mandatory requirement under Section 116-C of the Act. Unless this exercise is undertaken and completed the question of recoveries as such does not arise. The quantum of amounts to be recovered from each one of the employees of the Society concerned depends upon such fixation of pay scales, emoluments and other allowances. It shall always be open to an aggrieved employee to raise a dispute about the quantum of the amount if any, sought to be recovered from such employee. Each of the proceedings proposing to recover the amount, if any, from each of the employees, is required to contain the complete details as to how the amounts sought to be recovered are arrived at."

Following the decision cited above, and especially in view of the fact that there is no such fixation of salaries, the impugned action is wholely unsustainable.

Accordingly, the writ petition is allowed and impugned notices are set aside. However, it is always open for the respondents to take all such steps as observed in the aforesaid decision and proceed accordingly. No order as to costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Tuesday the Third day of August Two thousand and Four.

03-08-2004

klp/kvsn

To

1 The Managing Direcotr,A.P.State Cooperative central Bank Ltd., (APCOB)

Troop Bazar, Hyderabad
2 The Suptd. of Police, Mahaboobnagar, Mahaboobnagar Dist.
3 The General Manager, Mahaboobnagar Dist.Cooperative Central Bank

Mahaboobnagar,
4 The Dist.Cooperative officer, Mahaboobnagar, Mahaboobnagar Dist.
5 The Divisional Cooperative officer/ Dy.Registrar, Anaparthy, Mahaboobnagar(D).
6 The Divisional Cooperative officer/Dy.Registrar, Nagar Kurnool, Mahaboobnagar Dist.
7 The Divisional Cooperative officer/Dy.Registrar, Mahaboob Nagar, Mahaboobnagar Dist.

8 Two C.Cs to G.P. for Co-operation, High Court buildings,

HYDERABAD.(OUT)

9. Two C.D. copies.